

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiffs,

vs.

ERIC BERINGER,

Defendants.

4:18CR3088

ORDER

At the outset of the suppression hearing scheduled for today, defense counsel orally moved to withdraw the motions to suppress, (Filing Nos. 379 and 407), and all related and supporting documents, (Filing Nos. 380, 381, 411, and 414), filed on behalf of Defendant Beringer. In response to the motion to withdraw, the government asked for clarification on the record as to whether defense counsel's briefing contained factual inaccuracies. Defense counsel responded that the brief filed in support of the initial motion to suppress (see Filing No. 380) contained factual misstatements.

The misstated facts within the brief were highly troubling. Berringer's counsel accused the government's attorney and ICE agents of refusing to allow Beringer to speak with his attorney before being interviewed even though they knew Beringer was represented. The brief further accused ICE agents of imposing conditions of custody that coerced Beringer to answer the government's questions. Defense counsel acknowledged that at the time the brief was submitted, counsel had the ability to know the foregoing accusations were not true. Counsel explained that the factual inaccuracies were due to inadequate communication or miscommunications within counsel's office.

The interests of justice, and the public's understanding of its constitutional rights, are not served when court submissions include avoidable misstatements of fact and law. That said, defense counsel accepted full responsibility for their factual and legal misstatements, explaining that those inaccuracies should not reflect in any way on their client.¹ Defense counsel publicly apologized to the government, and the government accepted the apology. The court will therefore grant the requested motion to permit withdrawal of filings 379, 380, 381, 407, 411, and 414.

IT IS ORDERED:

- 1) Defendant's motion to withdraw, (Filing No. 427), is granted.
- 2) Filings 379, 380, 381, 407, 411, and 414 are withdrawn, and the clerk shall indicate as such in the docket text of each of these filings.

February 28, 2019.

BY THE COURT:

s/ Cheryl R. Zwart
United States Magistrate Judge

¹ The defendant was assured that the misstatements would in no way reflect on him or the outcome of his case.